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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,460	02/28/2002	Kung-Shen Lo	1981019	2345

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PRO-TECHTOR INTERNATIONAL
20775 Norada Court
Saratoga, CA 95070-3018

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,460

Applicant(s)

LO, KUNG-SHEN

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7, 14, 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al (GB '140) in view of Schnaier ('612) further in view of Schumacher (Germ. 19643556), Fujiya Kamaboko (Jp 1-256372), Eales (5,066,502) and Martin (1, 710,369), further in view of Kirin Nyugyo (Jp 3-61469), Fukuoka (Jp 56-48863), Obata et al (Jp 2-255054), and Igari (Jp 60-16566), further in view of Fukuoka (Jp 60-2158) and Sugisawa (GB 2163035)

In regard to claim 7, Mitchell et al (GB '140) discloses positioning a stuffing material onto at least one bar so that both ends of the bar extend from the stuffing material, selecting a container with at least one compartment, placing the bar with the stuffing material in said compartment of the container, inputting a second coagulable or solidifiable material into the container to surround the stuffing material and removing the stuffing material with the solidified material around the stuffing material from the container while leaving the bar embedded in the stuffing material. Claim 7 differs from Mitchell et al in the recitation that the bar is placed in a recess in the container. Although not claimed, as disclosed, the bar is placed in the recess a sufficient distance so that enough of the bar is exposed so that the bar can be held at both ends. As evidenced by Schnaier, it is notoriously old to place a moldable food support stick into a recess of the mold to provide handles at both ends of the food after the food is molded. This is precisely applicant's objective as well. To modify Mitchell et al and provide a step of placing the handle into a recess for its art recognized and applicant's intended function; i.e. to provide two

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opposing handles would therefore have been obvious in view of the art taken as a whole. Schumacher, Fujija Kamaboko, and Eales can be relied on as further evidence that it was notoriously old to provide food-on-a stick configurations wherein the handle extends beyond the food in opposite directions. Kirin Nyugyo is relied on as further evidence of securing a first food on a stick, placing the stick in a recess of a mold, molding a second product onto the core and removing the composition including the stick. Martin can be relied on as further evidence of using support sticks to produce a composite food wherein a food, to become a core or inner food, is supported on the stick and provided with another solidifiable covering by placing the stick and stuffing material in a mold and pouring the solidifiable covering material thereover. Claim 7 differs from Mitchell et al in the outer solidifiable material that encloses the stuffing material. Mitchell et al and Martin are seen to be generic teachings that one could form any composite material one chooses using at least one solidifiable material. Claim 7 recites that the outer solidifiable material is liquid Soybean so that the final outer solidifiable product is tofu. As evidenced by Schamacher, applicant is not the first to provide tofu on a stick. As evidenced by Fukuoka ('863) and further evidenced by Obta et al and Igari, applicant is not also the first to provide a composite tofu with stuffing material embedded in the solidifiable soybean material that turns to tofu. To therefore modify the combination, and specifically Mitchell et al, and substitute one conventional composite food for another conventional composite food would therefore have been obvious especially since tofu on sticks and composite tofu are both known. Claim 7 also recites how the tofu was made. As noted in the last Office action, Fukuoka ('2158) and Sugisawa et al can be relied on to teach that the soybean to tofu making steps were conventional and to employ conventional tofu making steps would therefore been obvious.

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Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 7 above, and further in view of Hoyt (4,001,440) and Odagiri (Jp 3-272669) who are applied as in the last Office action to teach it would have been obvious to provide moldable foods with various shapes and the particular shape selected is seen to have been an obvious matter of choice and/or design.

Applicant's remarks filed 9/03/03 have been fully considered but are seen to be moot in view of the new ground of rejection necessitated by the amendment.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 7:00am to 3:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1201.

S. Weinstein/af
February 20, 2004


STEVE WEINSTEIN
PRIMARY EXAMINER 1761
2/24/04
Rem sen. 8 A69